DOCUMENT RESUME

ED 343 677 PS 020 383

AUTHOR Rose, Deborah F.; Smith, Barbara J.
TITLE Serving Children with Disabilities in Chapter 1 Programs for Children Who Are Educationally Deprived. Policy and Practice in Early Childhood Special Education Series.
INSTITUTION Allegheny-Singer Research Inst., Pittsburgh, PA.
SPONS AGENCY Department of Education, Washington, DC.
PUB DATE Jan 92
CONTRACT H024K90002
NOTE 33p.; Developed by the Research Institute on Preschool Mainstreaming.
PUB TYPE Reports - Evaluative/Feasibility (142)

EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS Access to Education; Case Studies; *Child Advocacy; Compliance (Legal); Definitions; *Disabilities; *Educationally Disadvantaged; Eligibility; Federal Legislation; High Risk Students; Individualized Education Programs; Intervention; *Mainstreaming; *Preschool Children; Preschool Education; Public Education; Public Policy; Special Education; Special Needs Students; Student Placement
IDENTIFIERS *Elementary Secondary Education Act Title I; *Individuals with Disabilities Education Act

ABSTRACT

The Individuals with Disabilities Education Act (IDEA) mandates special education and related services to be delivered in the least restrictive environment to preschoolers with disabilities. The act also mandates that educators and administrators find appropriate educational placements for children who are entitled to receive a free public education. This report summarizes findings from a national survey and subsequent case studies related to federal, state, and local policies that present barriers to preschool mainstreaming. Survey and case study respondents cited policy barriers related to interpretations of policies and policy requirements. This paper focuses on Chapter 1 regulations and clarifies the process of including Chapter 1 preschool services in the least restrictive environment for children with disabilities and their families. Definitions in Chapter 1 and the IDEA statute are compared for the following terms: preschool children, educationally deprived children, children with disabilities, free public education, free appropriate public education, and desired outcomes. The intent of each statute is discussed, as are several federal clarifications regarding eligibility and service delivery. It is concluded that under certain conditions, a preschooler with a disability may be placed in a program or class that is funded by Chapter 1 for the purpose of providing the child with an integrated or mainstreamed placement. (LB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ALLEGHENY-SINGER RESEARCH INSTITUTE

320 East North Avenue
Pittsburgh, Pennsylvania 15212-4772
412-359-1600

Early Childhood Intervention Program

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.

☒ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

ED343677

POLICY AND PRACTICE IN EARLY CHILDHOOD

SPECIAL EDUCATION SERIES

SERVING CHILDREN WITH DISABILITIES IN CHAPTER I PROGRAMS FOR CHILDREN WHO ARE EDUCATIONALLY DEPRIVED

Deborah F. Rose

and

Barbara J. Smith, Ph.D.

January, 1992

PS 020383

One in a series of papers developed by the Research Institute on Preschool Mainstreaming to assist policy makers in developing preschool mainstreaming policies. The Research Institute on Preschool Mainstreaming is funded under cooperative agreement #H024K90002 from the U.S. Department of Education to the Allegheny-Singer Research Institute, Pittsburgh, Pennsylvania. The opinions expressed herein do not necessarily reflect those of the U.S. Department of Education nor the Allegheny-Singer Research Institute and no official endorsement should be inferred.

VHA
Member of Voluntary Hospitals of America, Inc.

BEST COPY AVAILABLE

POLICY AND PRACTICE IN EARLY CHILDHOOD

SPECIAL EDUCATION SERIES

SERVING CHILDREN WITH DISABILITIES IN CHAPTER I PROGRAMS FOR CHILDREN WHO ARE EDUCATIONALLY DEPRIVED

Deborah F. Rose

and

Barbara J. Smith, Ph.D.

January, 1992

One in a series of papers developed by the Research Institute on Preschool Mainstreaming to assist policy makers in developing preschool mainstreaming policies. The Research Institute on Preschool Mainstreaming is funded under cooperative agreement #H024K90002 from the U.S. Department of Education to the Allegheny-Singer Research Institute, Pittsburgh, Pennsylvania. The opinions expressed herein do not necessarily reflect those of the U.S. Department of Education nor the Allegheny-Singer Research Institute and no official endorsement should be inferred.

SERVING CHILDREN WITH DISABILITIES IN CHAPTER I PROGRAMS FOR CHILDREN WHO ARE EDUCATIONALLY DEPRIVED[1]

Deborah F. Rose and Barbara J. Smith, Ph.D.

Under the Individuals with Disabilities Education Act, educators and administrators around the country are charged with the responsibility of finding appropriate educational placements for preschool children with disabilities between the ages of 3 and 5 years. Special education and related services are mandated to be delivered in the least restrictive environment (LRE). Section 300.551 of the regulations governing the Individuals with Disabilities Education Act (IDEA), (formerly named the Education of the Handicapped Act, (EHA)) requires schools to offer a continuum of alternative placements in order to provide LRE, and specifically requires:

> (a) " Each public agency shall insure that a continuum of alternative placements is available to meet the needs of handicapped children for special education and related services.
> (b) The continuum required under paragraph (a) of this section must:
> (1) Include the alternative placements listed in the definition of special education under reg. 300.13 of Subpart A (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions), and
> (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement."

---

[1] One in a series of papers developed by the **Research Institute on Preschool Mainstreaming** to assist policy makers in developing preschool mainstreaming policies. The Research Institute on Preschool Mainstreaming is funded under cooperative agreement #H024K90002 from the U.S. Department of Education to the Allegheny-Singer Research Institute, Pittsburgh, Pennsylvania. The opinions expressed herein do not necessarily reflect those of the U.S. Department of Education nor the Allegheny-Singer Research Institute and no official endorsement should be inferred.

The U.S. Office of Special Education Programs (OSEP) in 1989 clarified the continuum of alternative placements requirement as it relates to preschoolers by adding a "comment" to the regulations (§300.552) of Part B, IDEA as follows:

> "The requirements of §300.552 ["placements"], as well as the other requirements of §§300.550-300.556 ["Least Restrictive Environment"], apply to all preschool handicapped children who are entitled to receive a free appropriate public education. Public agencies that provide preschool programs for nonhandicapped children must ensure that the requirements of §300.552(c) [requirements related to LRE] are met. Public agencies that do not operate programs for nonhandicapped preschool children are not required to initiate such programs solely to satisfy the requirements regarding placement in the least restrictive environment embodied in §§300.550 300.556. For these public agencies, some alternative methods for meeting the requirements of §§300.550-300.556 include: (1) Providing opportunities for the participation (even part-time) of preschool handicapped children in other preschool programs operated by public agencies (such as Head Start); (2) Placing handicapped children in private school programs for nonhandicapped preschool children or private school preschool programs that integrate handicapped and nonhandicapped children, and (3) Locating classes for the handicapped preschool children in regular elementary schools. In each case the public agency must ensure that each child's placement is in the least restrictive environment in which the unique needs of that child can be met, based upon the child's individualized education program, and meets all of the other requirements of §§300.340-300.349 [IEP] and §§300.550-300.556" (34 CFR, 300.552).

In an effort to study the implementation of the least restrictive environment (LRE) requirement for preschoolers, the Policy Analysis Component of the Research Institute on Preschool Mainstreaming (RIPM) has conducted a national survey and subsequent case studies. These activities related to federal, state, and local policies that present barriers to preschool mainstreaming and remedies to those barriers. The term mainstreaming, as used in this paper, refers to the point on the LRE continuum

where children with disabilities are placed in "regular education" settings where their typical peers are normally served.

As reported by survey and case study respondents, policy barriers were cited relating both to interpretations of policies as well as actual policy requirements. Respondents reported that there exists confusion related to the role of services provided under Chapter 1 of the Elementary and Secondary Education Act (ESEA) as they pertain to preschool mainstreaming. This paper will examine Chapter 1 regulations and clarifications with respect to the appropriateness of including Chapter 1 preschool services in the LRE continuum for children with disabilities and their families.

OVERVIEW OF CHAPTER 1

The Elementary and Secondary Education Act (ESEA) was reauthorized in 1988 as the Augustus F. Hawkins-Robert Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-297). Chapter 1 programs included under ESEA consist of:

- Part A-Basic Programs Operated by Local Educational Agencies (LEAs)
- Part B-Even Start Programs Operated by Local Educational Agencies
- Part C-Secondary School Programs for Basic Skills Improvement and Drop-Out Prevention and Re-entry
- Part D-Programs Operated by State Agencies, Programs for Handicapped Children (P.L. 89-313), Programs for Migratory Children and Programs for Neglected and Delinquent Children.

ESEA, Part A-Basic Programs Operated by Local Educational Agencies (referred to as Chapter 1 throughout this writing) targets "educationally deprived" children whether or not they have a disability, and is therefore of interest to those responsible for placement of preschoolers with disabilities in mainstream settings. Where Chapter 1 programs are provided by the LEA for preschool age children, they are often the only non-special education school-based preschool placement option. Therefore, in these communities, such Chapter 1 programs would appear to be an integrated option in the LRE preschool placement continuum along with non-school based options such as child care or Head Start. However, some survey and case study respondents reported that there is confusion about whether children who are eligible for special education can be served in Chapter 1 preschool programs. The Policy Analysis Component of RIPM conducted an analysis of Chapter 1 and Part B, IDEA requirements. Following the policy analysis, clarification was sought from the Chapter 1 office in the U.S. Department of Education on questions raised by the survey and case study respondents.

COMPARISONS OF CHAPTER I (ESEA) AND PART B (IDEA)

DEFINITIONS

A policy analysis was conducted of Chapter 1, ESEA and Part B, IDEA definitions in order to determine the applicability of Chapter 1 services to preschool children with disabilities. Following is a comparison of pertinent definitions from both programs.

The term Preschool Children is defined by Chapter 1 as children who are:

> (1) "Below the age or grade level at which the LEA provides a free public education; and
>
> (2) Of the age or grade level at which they can benefit from an organized instructional program provided in a school or other educational setting."

The IDEA defines "preschool" as the age range of 3 through 5 years and makes no further comment.

The term Educationally Deprived Children is defined by Chapter 1 as:

"...children whose educational attainment is below the level that is appropriate for children of their age."

Section 1401 of the IDEA statute provides definitions of children with disabilities eligible for Part B services as follows:

> "(1) The term "children with disabilities" means children (A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
> (B) who, by reason thereof need special education and related services."

The 1991 Amendments to IDEA (P.L. 102-119) added an additional eligibility category for 3-5 year olds of "developmentally delayed" in the areas of physical, cognitive, communication, social/emotional, or adaptive development.

Free Public Education is defined by Chapter 1 as:

> "...education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12."

This Chapter 1 definition is easily confused with the IDEA term, free appropriate public education (FAPE) defined in Section 1401 of the IDEA statute as follows:

> "(18) The term "free appropriate public education" means special education and related services that-
> (A) have been provided at public expense, under public supervision and direction, and without charge,
> (B) meet the standards of the State educational agency,
> (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and
> (D) are provided in conformity with the individualized education program required under section 1414(a)(5) of this title."

The 1988 reauthorization of Chapter 1 services required the development of standards for Chapter 1 program improvement and evaluation. For Chapter 1 programs serving grades 2 through 12, aggregate performance data are required for program evaluation. For Chapter 1 programs serving preschool age children and grades K and 1, each LEA must develop "desired outcomes" as a measure of their Chapter 1 programs' effectiveness based on the guidelines that follow:

Desired Outcomes is defined by Chapter 1 as:

> (1) "... an LEA's goals to improve the educational opportunities of deprived children to help those children
> (i) Succeed in the regular educational program of the LEA;
> (ii) Attain grade-level proficiency; and
> (iii)Improve achievement in basic and more advanced skills..."

There is no corresponding Part B, IDEA language for desired outcomes although each child must have an Individualized Education Program (IEP) containing goals and objectives. There are no aggregate performance standards for Part B, IDEA participants.

STATUTORY INTENT

Chapter 1 statutory language states the purpose of the program as follows:

> "(b) The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education."

The IDEA intent is outlined in statute as follows:

> "It is the purpose of this chapter to assure that all children with disabilities have available to them, within the time periods specified in section 1412(2)(B) of this title, a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities."

DISCUSSION

When determining the appropriateness of Chapter 1 services for Part B, IDEA-eligible preschool children, it is important to recognize the significant differences between the two educational funding sources. In addition to the above listed definitions, a discussion of the original intent of the programs is necessary to make decisions regarding inclusion of Chapter 1 services in the LRE continuum.

As stated in section 200.44 of the Chapter 1 regulations:

> "...an LEA may use funds available under this part only to supplement and, to the extent practicable, increase the level of non-Federal funds that would, in the absence of funds under this part, be made available

for the education of pupils participating in Chapter 1 projects, and in no case may funds available under this part be used to supplant those non-Federal funds."

The Chapter 1 Policy Manual answers the question, "How can an LEA provide Chapter 1 service for handicapped children without violating the supplement, not supplant requirement?" as follows:

"Section 1014 (d) of Chapter 1 and § 200.31 (c)(5)(iii) of the regulations provide that an LEA may not use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions. Therefore, services that must be provided for children because of their handicap (for example, services required by the Education of the Handicapped Act) may not be paid for with Chapter 1 funds. An LEA may provide services for handicapped children that comply with the supplement, not supplant requirement if the Chapter 1 services have all of the following characteristics:

- The LEA designs the Chapter 1 project to address special needs resulting from educational deprivation, not needs relating to children's handicapping conditions.

- The LEA sets overall program objectives that do not distinguish between handicapped and non-handicapped participants.

- The LEA selects handicapped children for Chapter 1 services on the basis of educational deprivation, not on the basis of the handicap, and the LEA selects those handicapped children who can be expected to make substantial progress toward accomplishing project activities without substantially modifying the education level of the subject matter.

- The LEA provides the same services to address children's handicapping conditions from non-Chapter 1 funds that are provided for handicapped children in nonproject schools.

- The LEA provides Chapter 1 services at intensities taking into account the needs and abilities of individual participants, but without distinguishing generally between

handicapped and non-handicapped participants with respect to the instruction provided.

- The LEA provides for maximum coordination between the Chapter 1 services and the services provided to address the children's handicapping conditions in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the children's programs..." (p.112)

This guidance clarifies the purpose of Chapter 1 services as supplemental. The Policy Analysis Study investigators requested further clarification from the U.S. Department of Education regarding the appropriateness of Chapter 1 services for inclusion in the LRE continuum.

FEDERAL CLARIFICATIONS

Two federal clarifications regarding portions of Chapter 1 regulations were recently requested of the Director of Compensatory Education Programs of the U.S. Department of Education (see Appendices A & B for complete texts). While both requests for clarification sought an increased understanding of the Chapter 1 regulations as they pertain to Part B, IDEA Least Restrictive Environment (LRE) decisions, the second clarification sought specific guidance on funding issues related to LEAs whose only preschool services are funded solely with Chapter 1 dollars. Following is a discussion of the impact of those clarifications on LRE decisions. The "questions" and "clarifications" below are verbatim from the clarification letters. The "discussions" are for the purposes of this paper. The Policy Analysis Study investigators would like to acknowledge the editorial contribution of Wendy Jo New, Education Program Specialist - Compensatory Education, and Mary Jean LeTendre,

Director - Compensatory Education, U.S. Department of Education on the final draft of this document. This collaborative effort has resulted in the interpretation of the regulations and guidelines herein.

CLARIFICATION A: Children with Disabilities in Chapter 1 Programs (See Appendix A)

Question A #1

> "May children with disabilities who meet both Chapter 1 and Part B, IDEA eligibility requirements be served in Chapter 1 classrooms?"

Clarification A #1

> "Yes. As you noted in your question, if handicapped students meet the Chapter 1 eligibility criteria established by a local educational agency (LEA), they may be provided Chapter 1 services. To provide further clarification on this issue, §200.31(c)(5) of the Chapter 1 regulations provides that children receiving services to overcome a handicapping condition may also be eligible to receive Chapter 1 services, if they have needs stemming from educational deprivation and not solely related to their handicapping condition and if they are selected on the same basis as other children selected to receive Chapter 1 services. In addition, the LEA must provide maximum coordination between Chapter 1 services and services provided to address children's handicapping conditions. Also, students are not necessarily provided Chapter 1 services in Chapter 1 classrooms, as you mention. This is one mode of service, often referred to as the pullout model. However, Chapter 1 supplemental services may also be provided in the regular classroom (in-class model), before or after school, on weekends or in the summer, at the child's home, through take-home computer programs, and through tutoring, etc."

Discussion A #1

Once a project area is determined to be eligible to receive Chapter 1 funding, individual children are selected for participation according to §200.31 of the Chapter 1 regulations as follows:

> "...an LEA shall use funds available under this part only for educationally deprived children, identified under paragraph (b) of this section as having the greatest need for special assistance, in school attendance areas or schools selected under §200.30".

When determining the appropriateness of Chapter 1 services for inclusion in the LRE continuum, it is necessary to recognize the critical differences between Part B, IDEA as an entitlement program and Chapter 1 as a non-entitlement program. Part B, IDEA services are mandated for all eligible children. In contrast, there are two key factors for determination of whether a child receives Chapter 1 services. Eligibility must be determined for the school attendance areas first, and then for the individual child. Based on the incidence of poverty in a given school attendance area, a rank ordering of income levels of families from that school attendance area is determined. School attendance areas are targeted for Chapter 1 services if they are found to fall above the average poverty level for the district (districts that have high concentrations of low income families). Once a project area is determined to be eligible, students are selected to participate in Chapter 1 services based on "educational deprivation" coupled with "greatest need" - not based on their family's income. Chapter 1 services are "supplemental" to any service that is mandated. Chapter 1 programs can not provide the IEP services that a child with disabilities is eligible for under Part B, IDEA because the Part B services are mandated. While there are children eligible to receive Part B, IDEA services and who also meet the eligibility requirements of Chapter 1, the services available from these two programs cannot be one in the same...one must "supplement" the other.

Question A #2

"Under what conditions would this [serving a child with a disability in a Chapter 1 program] not be permissible?"

Clarification A #2

"Neither the Chapter 1 statute nor the regulations contains conditions that would make the provision of Chapter 1 services to handicapped students impermissible if such students are identified and selected for Chapter 1 services in compliance with Chapter 1 rules, and if the services are not otherwise required by Federal, State, or local law."

Discussion A #2

It is important to note that while a Part B, IDEA eligible child may also be eligible for Chapter 1 services, no services that appear on that eligible child's individualized education program (IEP) may be delivered via Chapter 1 dollars, otherwise, the Chapter 1 services would be "supplanting" the Part B services rather than being "supplemental" to the Part B services. The child remains entitled to Chapter 1 services as long as the services are supplemental to the IEP services. However, it appears that so long as the special education and related services required on the IEP are provided by non-Chapter 1 resources, this "supplement, not supplant" test is met.

Question A #3

"Does Chapter 1 specify particular personnel qualifications or requirements related to serving Part B eligible children in Chapter 1 programs?"

Clarification A #3

"No"

Question A #4

"May special education and related service personnel provide the special education and related services specified on the child's IEP on an itinerant basis to the Chapter 1 program?"

Clarification A #4

"According to the clarification you provided via telephone to Ms. New to this question, you are asking if, for example, a child's special education IEP specifies the need for speech and language assistance, must this service be provided by the Chapter 1 teacher or may a special education teacher go to the "Chapter 1 classroom" and provide the service?

There is no requirement that a Chapter 1 teacher provide services to address a child's handicapping condition as specified in a child's IEP. In fact, although the LEA must provide maximum coordination between Chapter 1 services and services provided to address a child's handicapping conditions, Chapter 1 services may not take the place of what the handicapped child is already required to receive, which in this example would be speech and language services. Chapter 1 services are to be supplemental to an educationally deprived child's program of instruction including services required by Federal, State, or local law to overcome the child's handicapping condition. The Chapter 1 services, which are to assist the child in performing in the educational program at a level appropriate for his/her age, may only supplement those services required by Federal law to be provided to handicapped children eligible for Part B, IDEA. Therefore, in further response to this question, for a handicapped child eligible for both Part B, IDEA and Chapter 1 services, if a special education teacher, on an itinerant basis, were to provide special education services during the time when a child is receiving supplemental Chapter 1 services, the child would be deprived of some Chapter 1 services to which he/she is entitled. Page 113 of the Chapter 1 Manual that you received from Ms. New provides some examples of Chapter 1 services for handicapped students."

Discussion A #3 and A #4

The above mentioned examples of service models for providing services to children with disabilities from the Chapter 1 Policy Manual are:

"1. In-class

An educational aide, tutor, or teacher can provide supplemental instructional assistance to Chapter 1 students who may also be

handicapped during their mainstreamed instructional activities. For example, if a handicapped student has been determined to be educationally deprived in language arts, the in-class tutor can provide assistance during the time the student is mainstreamed into language arts activities. This in-class tutor can work with all those in the language arts class who have been identified as eligible for and selected to receive Chapter 1 services. In this manner, there is maximum coordination with the regular classroom teacher since services are not segregated from non-handicapped students when Chapter 1 services are provided.

2. Multiple-funded teacher

A special education teacher can be multiple funded by special education funds and Chapter 1 funds in order to teach handicapped students for a portion of the day and Chapter 1 students for a portion of the day. In the portion of the day during which the teacher will work with Chapter 1 students, the teacher would be working with some of the handicapped students who were identified as eligible for and selected to receive Chapter 1 services. In this manner, there would be automatic coordination for those students in special education and Chapter 1 since the same teacher would be providing both services. This teacher could then spend sufficient time with the regular teachers for coordinating Chapter 1 and regular services for those non-handicapped Chapter 1 students." (p. 113)

Some survey and case study respondents reported that they had been told that Part B, IDEA eligible preschool children could not be served in Chapter 1 classes without a full-time special education teacher being present. Apparently, this was an "interpretation" of the "supplement, not supplant" requirement, i.e., a teacher solely funded through Chapter 1 monies cannot provide Part B required special education and related services as stipulated on an IEP. However, if non-Chapter 1 personnel provided the services in a child's IEP, for instance on an itinerant basis, there should be no personnel policy problems. Clarification B (see page 16) was requested, in part, in response to this item. It appeared from this response that there was a presumption

of Chapter 1 service delivery being other than a self-contained preschool classroom (e.g., "pull-out" or itinerant model). Our case study data suggested that for preschool age children, some Chapter 1 services were being delivered via a preschool classroom model.

Question A #5

> "What is the intent of §200.31(c)(5)(i)(A) of the Chapter 1 regulations which states, 'Have needs stemming from educational deprivation and not needs related solely to their handicapping conditions or limited English proficiency (LEP)...?'"

Clarification A #5

> "Although it may sometimes be difficult to decide whether children's educational needs stem from their handicapping conditions or LEP or from their educational deprivation, the intent of this provision is to prevent an LEA from including or excluding children from the Chapter 1 program merely because the children are handicapped or cannot speak English fluently. This also helps to ensure that LEA's establish educationally related criteria and uniformly apply the criteria to select students with greatest need for Chapter 1 assistance."

Discussion A #5

The Chapter 1 Policy Manual answers two important questions related to determining Chapter 1 eligibility for preschoolers with disabilities:

> "1) Must the preschool selection criteria include a standardized test?
>
> No. However, the information used to identify Chapter 1 preschool children must be educational and uniformly applied to all preschool children who reside in eligible attendance areas and whose parents agree to their children's participation.
>
> 2) What types of educationally related selection criteria may be used to select children for Chapter 1 preschool services?

Criteria used for preschool student selection must be educational and may include the results from such as:

- Readiness tests.
- Diagnostic developmental assessments.
- Teacher observations." (p. 65)

Question A #6

"Under what conditions may an LEA use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions?"

Clarification A #6

"There are no such conditions. Section 200.31(c)(5)(iii) provides that an LEA may not use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions or limited English proficiency."

Discussion A #6

Because the services in a child's IEP are required by federal law, Chapter 1 funds may not be used to provide those services (see questions 1 & 2 above).

CLARIFICATION B: Chapter 1 as a classroom model (see Appendix B)

Question B #1

"May Chapter 1 monies be the sole funding source for a classroom if the LEA has no existing preschool classroom?"

Clarification B #1

"...Chapter 1 may solely fund a preschool program for children who have been identified as eligible and selected to participate in the Chapter 1 preschool program. In this instance, the Chapter 1 preschool program need not supplement an existing preschool program. The Chapter 1 preschool program would be considered supplemental since it supplements the regular school program the LEA offers to all its

students. In the absence of the Chapter 1 preschool program, the eligible students would receive no services."

Question B #2

"If the response to the above question is "yes", such a Chapter 1 "class" would no longer be considered supplemental and would be a viable placement option for integrating preschool children with disabilities with their typical peers."

Clarification B #2

" As stated above, the Chapter 1 preschool program would be supplemental if there is not a district preschool program. Therefore, your interpretation that such a "class" would no longer be supplemental is incorrect. If Chapter 1 is the sole funding source for a preschool program, only students eligible for Chapter 1 may participate in the program. Preschool children with disabilities may participate in the Chapter 1 preschool program paid for solely with Chapter 1 funds only if those children are identified as eligible for Chapter 1. That is, they may be served in the Chapter 1 preschool program if they have needs stemming from educational deprivation and not needs related solely to their handicapping condition, and if they are selected to participate on the same basis as other children identified as eligible for and selected to be served by Chapter 1. Otherwise, in a preschool program funded solely by Chapter 1, they may not participate.

Preschool children with disabilities that do not meet the Chapter 1 eligibility requirements as discussed above may participate in a preschool program that is funded by both Chapter 1 and special education funds, with each program paying its proportionate share. For example, if the relative needs of the Chapter 1 and disabled children are similar, which would mean that the children from both programs require a similar amount of resources and teacher effort, and the preschool class contained six Chapter 1 children and four disabled children, the program costs would be shared. Chapter 1 would pay 60 percent of the costs and special education would pay 40 percent of the costs."

CONCLUSION

While a variety of questions were raised from the Research Institute on Preschool Mainstreaming survey, case studies and policy analysis, the central issue is: **May a preschool child with a disability be placed in a program or class that is funded by Chapter 1 in order to provide the child with an integrated or mainstreamed placement?** According to the federal clarifications, regulations and other policies, the answer is "yes" provided specific tests are met:

- If the child is eligible for the Chapter 1 program (child resides in an eligible Chapter 1 project area; and meets the LEA standard for "greatest need"); and

- The Chapter 1 resources (personnel and otherwise) are not used to provide what is required by other laws, e.g., the child's special education and related services as specified in the IEP, or

- If the child is not eligible for Chapter 1, but the classroom is multi-funded (not just Chapter 1 funds), then the child may participate so long as the special education and related services are provided with non-Chapter 1 funds.

It would follow then, that a child who is eligible for both Chapter 1 services and Part B, IDEA services and who could benefit from the Chapter 1 services could be placed in a Chapter 1 preschool program for mainstreaming or integration purposes so long as the IEP services are not paid for by Chapter 1 funds. Secondly, if a child is <u>not</u> eligible for Chapter 1 services, the child may still be placed in a Chapter 1 program so long as there are other resources to pay for her or his services <u>and</u> Chapter 1 funds are not used to pay for IEP services. In order to ensure that the child's IEP services are not provided by Chapter 1 resources, a variety of program strategies are available. Options include: a) providing the special education and related

services contained in the IEP by itinerants or consultants to the Chapter 1 program; b) funding the preschool class from a combination of sources including Chapter 1 and special education; and, c) providing personnel in the classroom that are funded by and meet the personnel standards of a variety of programs (e.g., Chapter 1, special education, etc.) in order to provide a team teaching or unified service to children who may have a wide variety of needs. Indeed, options such as these would seem to meet the goal outlined in the Chapter 1 Policy Manual as follows:

> "...maximum coordination between the Chapter 1 services and the services provided to address the children's handicapping conditions in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the children's programs"(p.113).

It is now clear from the clarifications noted that Chapter 1 can be a reasonable placement option in the Part B, IDEA LRE continuum. Because many of the programmatic decisions are made at the local and state level, an effective practice is to have coordinated planning between the Chapter 1 personnel and the preschool special education personnel at both levels. Given that Chapter 1 student eligibility and desired outcome criteria are established at the local level, local coordinated efforts on both of these policies would enhance integration efforts. Secondly, since each LEA must submit its Chapter 1 application to the SEA for funding approval, similar state level cooperative activities would enhance integration. If Chapter 1, special education and regular education services were coordinated on the state and local level, planning to meet the varied needs of all preschool children in an area could be accomplished.

REFERENCES

Chapter 1 Policy Manual: Basic Programs Operated by Local Educational Agencies, U.S. Department of Education, Office of Elementary and Secondary Education, Compensatory Education Programs, April, 1990.

Individuals with Disabilities Education Act - Part B - Assistance for Education of Children with Disabilities (20 U.S.C. secs. 1411-1420), October, 1991.

Elementary and Secondary Education Act (20 U.S.C. secs. 2701-2796), April, 1988.

APPENDIX A

ALLEGHENY-SINGER
RESEARCH INSTITUTE

320 East North Avenue
Pittsburgh, Pennsylvania 15212-9986
412-359-1600

Early Childhood Intervention Program

June 12, 1991

Mary Jean LeTendre
Director
Compensatory Education Program
U.S. Department of Education
400 Maryland Ave. SW, FOB 6
Room 2043
Washington DC 20202-6132

Dear Ms. LeTendre:

I appreciated the opportunity to meet with Wendy Joe New on June 7, 1991 regarding the Chapter 1 regulations. The Research Institute on Preschool Mainstreaming (RIPM) Policy Analysis Component will be producing an Administrator's Handbook on Preschool Mainstreaming which is scheduled for wide distribution late this summer. The purpose of the handbook will be to provide early childhood educators and administrators with examples of policy disincentives and remedies which we believe will be useful in guiding their preschool mainstreaming efforts. The RIPM national survey of special education personnel at the local, state, and federal levels as well as case studies from seven states produced the following concerns regarding inclusion of preschool children with disabilities in Chapter 1 programs. I have enclosed some information about our project as well as our most recent policy paper entitled, Identifying Policy Options in Preschool Mainstreaming for your review.

Dr. Barbara J. Smith, Project Director and I would appreciate your response to the series of questions that follow so that we may include your clarifications in our handbook.

- May children with disabilities who meet both Chapter 1 and Part B, IDEA eligibility requirements be served in Chapter 1 classrooms?
- Under what conditions would this not be permissible?
- Does Chapter 1 specify particular personnel qualifications or requirements related to serving Part B eligible children in Chapter 1 programs?
- May special education and related service personnel provide the special education and related services specified on the child's IEP on an itinerant basis to the Chapter 1 program?

- What is the intent of section 200.31 (A) of the Chapter 1 regulations which states, "Have needs stemming from educational deprivation and not needs related solely to their handicapping conditions or limited English proficiency..."?

- Under what conditions may an LEA use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions? (Refer to §200.31 (iii) of the Chapter 1 regulations)

Thank you in advance for your prompt attention to this matter. Please feel free to contact Dr. Smith or myself at (412) 359-1600 if we can be of any help to you.

Sincerely,

Deborah F. Rose
Research Associate
Research Institute on
Preschool Mainstreaming

DFR:mh

enclosures

cc: Dr. Barbara J. Smith
Wendy Joe New

enclosure

UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202-6132

JUL - 1991

Ms. Deborah F. Rose
Research Associate
Research Institute on Preschool Mainstreaming
Allegheny-Singer Research Institute
320 East North Avenue
Pittsburgh, Pennsylvania 15212-9986

Dear Ms. Rose:

This is in response to your letter in which you ask several questions about Chapter 1 and special education in order to clarify these matters in a handbook you are developing for special education personnel. You also indicated that you discussed the Chapter 1 regulations with Wendy Jo New of my staff during the recent Preschool/Program Improvement conference. Your questions will be answered in the order in which they appear in your letter.

o **May children with disabilities who meet both Chapter 1 and Part B, IDEA eligibility requirements be served in Chapter 1 classrooms?**

Yes. As you noted in your question, if handicapped students meet the Chapter 1 eligibility criteria established by a local educational agency (LEA), they may be provided Chapter 1 services. To provide further clarification on this issue, §200.31(c)(5) of the Chapter 1 regulations provides that children receiving services to overcome a handicapping condition may also be eligible to receive Chapter 1 services, if they have needs stemming from educational deprivation and not solely related to their handicapping condition and if they are selected on the same basis as other children selected to receive Chapter 1 services. In addition, the LEA must provide maximum coordination between Chapter 1 services and services provided to address children's handicapping conditions. Also, students are not necessarily provided Chapter 1 services in Chapter 1 classrooms, as you mention. This is one mode of service, often referred to as the pullout model. However, Chapter 1 supplemental services may also be provided in the regular classroom (in-class model), before or after school, on weekends or in the summer, at the child's home, through take-home computer programs, and through tutoring, etc.

o Under what conditions would this not be permissible?

Ndither the Chapter 1 statute nor the regulations contains conditions that would make the provision of Chapter 1 services to handicapped students impermissible if such students are identified and selected for Chapter 1 services in compliance with Chapter 1 rules, and if the services are not otherwise required by Federal, State, or local law.

o Does Chapter 1 specify particular personnel qualifications or requirements related to serving Part B eligible children in Chapter 1 programs?

No.

o May special education and related service personnel provide the special education and related services specified on the child's IEP on an itinerant basis to the Chapter 1 program?

According to the clarification you provided via telephone to Ms. New to this question, you are asking if, for example, a child's special education IEP specifies the need for speech and language assistance, must this service be provided by the Chapter 1 teacher or may a special education teacher go to the "Chapter 1 classroom" and provide the service?

There is no requirement that a Chapter 1 teacher provide services to address a child's handicapping condition as specified in a child's IEP. In fact, although the LEA must provide maximum coordination between Chapter 1 services and services provided to address children's handicapping conditions, Chapter 1 services may not take the place of what the handicapped child is already required to receive, which in this example would be speech and language services. Chapter 1 services are to be supplemental to an educationally deprived child's program of instruction including services required by Federal, State, or local law to overcome the child's handicapping condition. The Chapter 1 services, which are to assist the child in performing in the educational program at a level appropriate for his/her age, may only supplement those services required by Federal law to be provided to handicapped children eligible for Part B, IDEA. Therefore, in further response to this question, for a handicapped child eligible for both Part B, IDEA, and Chapter 1 services, if a special education teacher, on an itinerant basis, were to provide special education services during the time when a child is receiving supplemental Chapter 1 services, the child would be deprived of some Chapter 1 service to which he/she is entitled. Page 113 of the Chapter 1 Policy Manual that you received from Ms. New provides some examples of Chapter 1 services for handicapped students.

- What is the intent of §200.31(c)(5)(i)(A) of the Chapter 1 regulations which states, "Have needs stemming from educational deprivation and not needs related solely to their handicapping conditions or limited English proficiency (LEP)..."?

  Although it may sometimes be difficult to decide whether children's educational needs stem from their handicapping conditions or LEP or from their educational deprivation, the intent of this provision is to prevent an LEA from including or excluding children from the Chapter 1 program merely because the children are handicapped or cannot speak English fluently. This also helps to ensure that LEAs establish educationally related objective criteria and uniformly apply the criteria to select students with greatest need for Chapter 1 assistance.

- Under what conditions may an LEA use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions?

  There are no such conditions. Section 200.31(c)(5)(iii) provides that an LEA may not use Chapter 1 funds to provide services that are required by Federal, State, or local law to overcome children's handicapping conditions or limited English proficiency.

I read with interest the paper, "Identifying Policy Options for Preschool Mainstreaming." As Ms. New informed you, we will be working with the Office of Special Education to discuss ways in which Chapter 1 and Special Education programs might be coordinated better. I look forward to receiving the Administrator's Handbook your Institute is preparing for special education personnel.

Sincerely,

Mary Jean LeTendre
Director
Compensatory Education Programs

APPENDIX B

ALLEGHENY-SINGER
RESEARCH INSTITUTE

320 East North Avenue
Pittsburgh, Pennsylvania 15212-9986
412-359-1600

Early Childhood Intervention Program

July 24, 1991

Mary Jean LeTendre
Director
Compensatory Education Program
U.S. Department of Education
400 Maryland Ave. SW, FOB 6
Room 2043
Washington DC 20202-6132

Dear Ms. LeTendre:

Thank you for your prompt response to our letter of June 12, 1991 inquiring about Chapter 1 services as they relate to preschool children with disabilities. Your clarification was very helpful in highlighting the role of Chapter 1 services as supplemental.

I attended the Chapter 1 conference on Preschool Programs and Program Improvement on June 5-7, 1991 in Washington DC. I have subsequently received your remarks from that conference. On page 13 of your remarks you state,

> "Perhaps now is the time to dispel some myths that may have arisen around preschool programs--one is that a preschool program must supplement an existing program. Not so. If there is no other preschool program, the supplemental nature is the program itself. How wonderful! You never have to pull children out of anything and what a way to add time for instruction!..."

Pursuant to these comments and in an effort to accurately report the role of Chapter 1 services as they relate to children with disabilities, I am asking for clarification on the following questions.

- May Chapter 1 monies be the sole funding source for a classroom if the LEA has no existing preschool classroom?

- If the response to the above question is "yes", such a Chapter 1 "class" would no longer be considered supplemental and would be a viable placement option for integrating preschool children with disabilities with their typical peers. Please comment.

VHA

As you are aware, the Policy Analysis Component of the Research Institute on Preschool Mainstreaming will include your clarification of these issues in our Administrator's Handbook. We are also in the process of writing a policy paper specifically dealing with Chapter 1 and preschool mainstreaming. We will send this paper to you for review so that we can be sure that we are accurately reporting the intent of your comments and Chapter 1 services.

Thank you in advance for your prompt attention to this matter.

Sincerely,

Deborah F. Rose
Research Associate

DFR/mh

UNITED STATES DEPARTMENT OF EDUCATION
WASHINGTON, D.C. 20202-6132

SEP - 3 1991

Ms. Deborah F. Rose
Allegheny-Singer Research Institute, E.C.I.P.
320 East North Avenue
Pittsburgh, Pennsylvania 15212-9986

Dear Ms. Rose:

This is in response to your request for clarification on the issue of a Chapter 1 preschool program being considered supplemental when the local educational agency (LEA) does not fund a regular preschool program.

First, you ask whether Chapter 1 monies may be the sole funding source for a classroom if the LEA has no existing preschool program. Chapter 1 may solely fund a preschool program for children who have been identified as eligible and selected to participate in the Chapter 1 preschool program. In this instance, the Chapter 1 preschool program need not supplement an existing preschool program. The Chapter 1 preschool program would be considered supplemental since it supplements the regular school program the LEA offers to all its students. In the absence of the Chapter 1 preschool program, the eligible students would receive no services.

Second, you request comment on your statement, "If the response to the above question is "yes", such a Chapter 1 "class" would no longer be considered supplemental and would be a viable placement option for integrating preschool children with disabilities with their typical peers." As stated above, the Chapter 1 preschool program would be supplemental if there is not a district preschool program. Therefore, your interpretation that such a "class" would no longer be supplemental is incorrect. If Chapter 1 is the sole funding source for a preschool program, only students eligible for Chapter 1 may participate in the program. Preschool children with disabilities may participate in the Chapter 1 preschool program paid for solely with Chapter 1 funds only if those children are identified as eligible for Chapter 1. That is, they may be served in the Chapter 1 preschool program if they have needs stemming from educational deprivation and not needs related solely to their handicapping condition, and if they are selected to participate on the same basis as other children identified as eligible for and selected to be served by Chapter 1. Otherwise, in a preschool program funded solely by Chapter 1, they may not participate.

Preschool children with disabilities that do not meet the Chapter 1 eligibility requirements as discussed above may participate in a preschool program that is funded by both Chapter 1 and special education funds, with each program paying its proportionate share. For example, if the relative needs of the Chapter 1 and disabled children are similar, which would mean that the children from both programs require a similar amount of resources and teacher effort, and the preschool class contained six Chapter 1 children and four disabled children, the program costs would be shared. Chapter 1 would pay 60 percent of the costs and special education would pay 40 percent of the costs.

I trust this response provides you with sufficient clarification. I look forward to reading your policy paper dealing specifically with Chapter 1 and preschool mainstreaming.

Sincerely,

Mary Jean LeTendre

Mary Jean LeTendre
Director
Compensatory Education Programs

APPENDIX C

Resources for Information on Early Childhood Policies and Programs

Council for Administrators in Special Education (CASE)
of the Council for Exceptional Children
615 16th Street, NW
Albuquerque, NM 87104
(505) 243-7622

The Division for Early Childhood (DEC)
of the Council for Exceptional Children
1920 Association Drive
Reston, VA 22091
(703) 620-3660

National Head Start Resource Access Program
Administration for Children, Youth and Families
Office of Human Development Services
U.S. Department of Health and Human Services
P.O. Box 1182
Washington, DC 20013
(202) 245-0562

National Association for the Education of Young Children (NAEYC)
1834 Connecticut Avenue, NW
Washington, DC 20009-5786
(800) 424-2460

National Association of State Directors of Special Education (NASDSE)
1800 Diagonal Road, Suite 320
King Street Station 1
Alexandria, VA 22314
(703) 519-3800

National Early Childhood Technical Assistance System (NEC-TAS)
Suite 500
NCNB Plaza
Chapel Hill, NC 27514
(919) 962-2001

U.S. Office of Special Education Programs
Early Childhood Branch
400 Maryland Avenue, S.W.
Washington, DC 20202
(202) 732-1084